IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC. CIVIL APPLN.(CONTEMPT PETITION) No 314 of 1996
WITH
MISC. CIVIL APPLN.(CONTEMPT PETITION) No315 of 1996

IN

SPECIAL CIVIL APPLICATION NO 4603 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH
and
Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KISHOREBHAI NATHALAL VADERIA

Versus

ANAND TOUGHENED GLASS P. LTD

Appearance:
MR AV PRAJAPATI for Petitioner
MR DC DAVE for Respondent No. 1, 2
MR NAGESH SOOD for Petitioner
MR CL SONI for Respondent

CORAM : MR.JUSTICE M.S.PARIKH
and

MISS JUSTICE R.M.DOSHIT

Date of decision: 07/03/2000

ORAL JUDGEMENT [Per M.S. Parikh, J.]

1. Both these contempt petitions arise on the allegation that the 1st respondent Anand Toughened Glass P. Ltd. has committed breach of the undertaking given to the Court pursuant to the order dated 30/7/1991 passed in S.C.A. No. 4603 of 1991 and the direction in that respect given by the Court while dismissing the petition filed by the aforesaid company. Following order came to be passed by the Court :-

> "The petitioner is directed to honour undertaking furnished by him in pursuance of order dated 30th July, 1991 within a period of one month."

The company accordingly had undertaken before the Court that in the event of the petition being decided against the company, it will make the payment of the octroi becoming due and payable by that time within a period of one month from the date of decision and that properties described in the statement annexed to the undertaking would not be disposed of and/or transferred and/or alienated in any manner pending the final disposal of the petition. M.C.A. No. 315 of 1996 has been moved by Thasara Gram Panchayat and M.C.A. No. 314 of 1996 has been moved by Ijardar Kishorbhai Nathalal Vaderia.

2. During the course of the proceedings of both the aforesaid contempt petitions directions were issued, according to which the company was required to deposit/pay Rs.75,000/-, which amount has already been paid to the Thasara Gram Panchayat. Subject to the adjudication of the disputes with regard to the actual amount of octroi due for the period in question, the company has also deposited Rs.34,676/- and Rs.50,560/-. The company is also stated to have deposited Rs.336/-. It was submitted on behalf of the company that the amount was deposited as per the calculation given by the Thasara Gram Panchayat.

3. In respect of the aforesaid deposits of Rs.34,676/-, Rs.50,560/- and Rs. 336/- it has been submitted by Mr. Soni, learned advocate for the Panchayat that the amount might be permitted to be withdrawn by the Panchayat subject to account as amongst Panchayat, Ijardar and the company. To this suggestion, there can hardly be any objection from the learned advocates for the Ijardar and the company in as much as

according to the Panchayat some more amount is due and payable ; whereas according to Ijardar and the company they have to take some amount from the Panchayat on correct calculation of the amount. Without entering into the limited disputes as between the parties as reflected in the aforesaid submissions, we find that the undertaking which has been given by the company will stand complied with as per the orders passed from time to time in both these petitions.

In the result, following order is required to be passed :-

Office will verify remaining amount of Rs.34,676/-, Rs.50,560/- and Rs.336/- and to pay the same to the Thasara Gram Panchayat by account payee cheque. It will be open to the petitioner of M.C.A. No. 314/1996 to claim the amount which he finds to be due and payable by the Panchayat to him out of the aforesaid amount. Rule is accordingly discharged in both petitions.

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PVR.